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TO THE SENATE COMMITTEE ON  
JUDICIARY AND LABOR

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Tuesday, April 1, 2008  
10:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2255, H.D. 2, S.D. 1 – RELATING TO LIFE INSURANCE.**

TO THE HONORABLE BRIAN TANIGUCHI, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department supports this bill and requests one amendment.

The purpose of this version of the bill is to conform the Insurance Code with model acts and regulations of the National Association of Insurance Commissioners (“NAIC”) by amending the requirements for: (1) employee group life insurance policies in Hawaii Revised Statutes (“HRS”) § 431:10D-202(b); (2) spouse and dependents of insured individuals in HRS § 431:10D-212(a); and (3) replacement of life insurance policies and annuities in HRS § 431:10D-501(b). This version of the bill adopted the substance of Senate Bill No. 3245, S.D. 1.

Specifically, this version of the bill: (1) allows the premium for an employee group life insurance policy to be paid entirely by the employer, entirely by the insured employees, or partly by both the employer and the insured employees; (2) deletes the requirement that at least 75% of eligible employees elect participation in the employee

group insurance policy; (3) allows employee group policies to cover less than ten employees at policy issuance, by eliminating the ten employee requirement; (4) deletes the provision precluding individual selection by the employees, employer, or trustees of amounts of insurance under an employee group insurance policy; (5) allows dependents of the insured employee to be insured up to the amount of coverage of the insured employee under an employee group insurance policy, by eliminating the express policy limits against loss due to death of a dependent (other than the spouse); and (6) adds the exercise of the term conversion privilege among corporate affiliates as an exclusion from the applicability of Article 10D governing the replacement of life insurance policies and annuities.

The Department supports the adoption of model acts and model regulations to promote uniformity of state insurance laws and to ease regulatory compliance for insurers transacting business across various states.

The provisions in HRS § 431:10D-202 are incorporated by reference and therefore also applicable to group disability insurance, pursuant to HRS § 431:10A-201. Therefore, the Department's comments also apply to employee group disability policies.

In reviewing the NAIC Group Life Insurance Definitions and Group Life Insurance Standard Provisions Model Act (October 2005) ("Model Act"), the Department agrees that the Model Act does not include the ten employee requirement and the 75% participation rate where there is partial employee contribution.

The current Model Act limits the death benefit of a group life policy to 50% of the insured individual's coverage on spouses and dependent children of the insured individual. Currently, HRS § 431:10D-212(a) does not impose a limitation on the death benefit of the spouse, but limits dependent coverage to the lesser of 50% of the insured individual's coverage or \$5,000. Since the limit is based on a fixed dollar amount, the value of the death benefit erodes over time. The Department takes no position on this amendment, as extending group policy benefits to the spouse and dependents constitutes a business decision for the employer.

Although it is not in the Model Act, the provision prohibiting individual selection of amounts of insurance under the employee group life insurance policy is intended to

prohibit discrimination, particularly by the employer. The Department believes that the provision in paragraph (5) of HRS § 431:10D-202(b) on page 4, lines 1-3 should remain and not be deleted and respectfully requests that the bill be amended accordingly. In the alternative, the Department prefers House Draft 2 which deleted "employees" on page 4, line 3. This is the compromise upon which ACLI and the Department agreed on this provision.

The Department reviewed the Life Insurance and Annuities Replacement Model Regulation (October 2007) ("Model Regulation") and agrees that the Model Regulation includes an exception for the exercise of the term conversion privilege among corporate affiliates.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN SUPPORT OF H.B. 2255, HD 2, SD 1, RELATING TO LIFE INSURANCE

April 1, 2008

Senator Brian T. Taniguchi, Chair  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capital, Conference Room 016  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Chair Taniguchi and Committee Members:

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association whose three hundred fifty-three (353) member companies account for 93% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred sixty-one (261) ACLI member companies currently do business in the State of Hawaii.

Thank you for the opportunity to testify in support of House Bill 2255, HD 2, SD 1, relating to Life Insurance.

Hawaii Group Life Insurance Law

Background

Hawaii group life insurance law permits only group life policies where “the premium for the policy ... shall be paid either . . . wholly from the employer’s funds or funds contributed by the employer or . . . [p]artly from such funds and partly from funds contributed by the insured employees.” No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees.” §431:10D-202(b)(2), HRS. Hawaii law further requires that at least 75% of the eligible group member participate in the plan, that it insure 10 lives at date of issue in order for the insurance to be provided. These limitations are similar to ones that were contained in the Group Life Insurance Model Act developed by the National Association of Insurance Commissioners (NAIC) originally in the 1950’s. In the mid-1980s, however, the NAIC revised that Model Act to remove these two restrictions. Hawaii is among those few states that have not yet modernized its law to be consistent with these new provisions.

## Current Group Life Insurance Trends and Legislation

Recent studies reveal a disturbing trend – many people lack adequate financial protection to provide for their dependents in the event of their premature death. In one survey, only 53% said they had any life insurance protection at all. Of those with insurance, 50% have coverage of no more than three years' worth of household income, which for most is not sufficient to provide for the family's financial needs. In a survey of those who had lost a spouse within the last five years, 65% described it as a "devastating" or "major" financial impact, from which half had not recovered financially even five years later.

As health insurance costs continue to rise, employer contributions to employee benefit plans are increasingly being directed towards medical coverage, leaving fewer employer dollars to subsidize other types of coverage. Restricting the ability of Hawaii employers to offer access to life insurance coverage at affordable group rates has only contributed further to the problems of the uninsured and underinsured.

For these reasons, ACLI supports House Bill 2255, HD 2, SD 1, relating to Life Insurance, which amends Hawaii's group life insurance laws as follows:

1. The Bill repeals the minimum life requirement of 10 lives. As a result, the size of the group is permitted to be less than 10.
2. The Bill repeals the provision which prohibits the employees from paying the entire premium. The Bill would, therefore, allow the premiums to be paid entirely by the employer, entirely by the employee or from funds contributed by both the employer and employee.
3. The Bill repeals the current requirement that non-spouse dependent coverage be limited to 50% of the amount the employee is insured for.

The Bill was previously amended by the Senate Committee on Consumer Protection and Housing to reinsert the requirement under current law that the amount of insurance under the policy be based upon a plan which prohibits individual selection either by the employees, employer or trustees.

In prior hearings on the bill, the Insurance Division did not oppose allowing individual selection by employees but it did oppose allowing individual selection by the employer or trustees. To address the Division's concern ACLI had agreed that Section 2 of the bill as currently worded (which amends Paragraph (b) of Section 431: 10D-202, Hawaii Revised Statutes) be REVISED as follows:

~~“(5) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the employees employer or trustees. (4) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the employer or trustees.”~~

While this revision would continue the current laws prohibition against individual selection by an employer or trustee, it would permit an employee to purchase the amount of insurance suitable for his or her needs – just as individuals do. For example, instead of having an employer choose an arbitrary death benefit of say \$35,000 for the entire group, the employee is permitted to choose a death benefit for himself of \$40,000. With this change in the law group policies are permitted to be more flexible by giving employees more choice of coverage.

#### Affect on Group Disability Insurance

Because the requirements for group life insurance also apply to eligible groups for group disability insurance policies under §431:10A-201(4), HRS, the favorable changes reflected in House Bill 2255, HD 2, SD 1, will also apply to group disability insurance.

#### Hawaii's Replacement Regulation – Inter-Affiliate Term Conversions

The Bill also exempts Inter-Affiliate term conversions from Hawaii's Replacement of Life Insurance Policies and Annuities law set forth in §431:10D-501(b), HRS . This law incorporates the NAIC Life Insurance and Annuities Replacement Model Regulation ("Model Regulation"). The Model Regulation requires certain notice and disclosure requirements for replacements by one company to another and until recently, conversions from one corporate affiliate to another. In June 2006, the NAIC agreed to exempt inter-affiliate term conversions, along with intra-affiliate term conversions, from the Model Regulation.

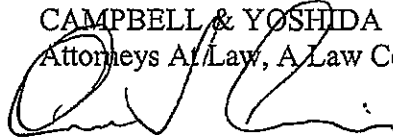
Offering streamlined term conversions within a corporate family allows for a smooth transition from term ownership to the added protection and potential cash value accumulation in a permanent policy. There is no surrender charge, no loss of any cash value, no new contestability or suicide exclusion period and no additional underwriting. In addition, the new policy is fully illustrated for the consumer. Therefore, since these are essentially "internal" conversions among related companies the consumer is not disadvantaged by removing the additional and often confusing disclosure and paperwork required by the Model Regulation.

HB 2255, HD 2, SD 1, therefore, exempts these "internal" term conversions from the notice and disclosure requirements mandated by the Model Regulation.

*For the foregoing reasons, ACLI requests that with the one amendment described above, relating to individual selection in Section 2 of the bill, this Committee pass House Bill 2255, HD 2, into law.*

Again, thank you for giving us the opportunity to testify in support of House Bill 2255, HD 2, SD 1.

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Committee on Judiciary and Labor  
Senator Brian Taniguchi, Chair

**RE: House Bill 2255, HD 2, SD 1 – Relating to Life Insurance**

**Decision Making Date: April 1, 2008**

**Time: 10:00 am**

Chair Taniguchi and members of the Committee, my name is Cynthia Hayakawa, Executive Director of NAIFA (“National Association of Insurance and Financial Advisors”) Hawaii, an organization made up of life insurance agents and financial advisors.

**We support HB 2255, HD2, SD 1, but prefer the HD 2 version** that included 431:10D-202(b)(5), HRS: The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the employees, employer, or trustees.

This section will prohibit discrimination between management and rank and file members.

The SD 1 version from CPH deleted this section. We agree with Insurance Division on keeping this language in the measure and respectfully request this amendment.

This measure will update Chapter 431:10D-202, HRS, by amending sub section (b) -- regarding employee group life insurance policies. The amendments in this measure have been adopted by the NAIC’s Group Life Insurance Definition and Group Life Insurance Standard Provisions Model Act.

Amendments include the following:

- Allows for payment of group life insurance premiums to be paid by the employer, employee or by a combination of both employee and employer payments;
- Eliminates the 10 employees requirement to qualify for a group policy;
- Allow for spouse and dependents of the employee to purchase insurance equivalent to the insured employee’s amount of coverage;
- Eliminates the policy’s notice of replacement requirements for term life insurance conversion privilege among the corporate affiliates; the benefits in the term policy being converted will apply to the new policy which is beneficial to the policyholders.

This measure will update the Hawaii insurance code to allow employers and employees greater flexibility and added benefits in the purchase of group life insurance to better protect families financially.

*Mahalo* for allowing us to share our views.